

**NOTICE OF LABOROR'S CONTRACTORS LIEN**

TO: JS Property Management  
5335 Lake Meadows Road  
Lake Oswego, Oregon 97035

Ling Westwind LLC d/b/a Westwind Townehomes  
400 Kruse Way Place  
Building Three Ste 110  
Lake Oswego, Oregon 97035

STATE OF MISSISSIPPI

COUNTY OF DESOTO

Comes Now, Christopher Mitchell d/b/a Three C's Landscaping, an adult resident citizen of Shelby County, Tennessee who after being first duly sworn according to law, makes oath and states as follows:

1. Christopher Mitchell, the Lien Claimant, performed labor and services on the property of JS Property Management at the Westwind Townhomes in Horn Lake, Mississippi pursuant to written agreement attached herewith as Exhibit B. JS Property Management still owes Christopher Mitchell d/b/a Three C's Property Management FIVE THOUSAND EIGHT HUNDRED DOLLARS in contractual services (\$5,800.00).

2. Christopher Mitchell does hereby give written notice of lien and claim of a priming lien upon all the business and personal property of JS Property Management pursuant to Mississippi Code. Ann. Sec. 85-5-131 et seq, upon the following real property either now existing or hereafter acquired including rents and leases:

LEGAL DESCRIPTION ATTACHED HEREWTIH AS EXHIBIT A.

3. Christopher Mitchell d/b/a Three C's Landscaping does hereby give written notice of lien and claim of lien upon all the business and personal property of City Auto pursuant to Mississippi Code. Ann. Sec. 85-5-131 et seq upon the following personal property either now existing or hereafter acquired and wherever located of JS Property Management:

a. Any and all accounts, chattel paper, collateral, deposit accounts, equipment, inventory, letter of credit rights, electronic chattel paper, documents, documents of title, fixtures, general intangibles, goods, instruments, investment property, mortgages, security interests, patents, trademarks, copyrights, oil, gas, minerals, standing timber, payment intangibles, promissory notes, checks, tangible chattel paper, certificate of titles, goods, farm products, and commercial tort claims as defined in the Uniform Commercial Code.

b. Any and all profits, rents, proceeds, products, offspring, fees, charges, accounts, cash proceeds, insurance proceeds, noncash proceeds, or other payments of the collateral described in the foregoing sub-paragraph.

c. Any and all books and papers, computer records or programs that represent the interest or reflect the interests described the foregoing sub-paragraph.

STATE OF TENNESSEECOUNTY OF Shelby

This day personally appeared before me, the undersigned authority in and for the county and state aforesaid, Christopher Mitchell d/b/a Three C's Landscaping, who having been first duly sworn on oath states that the matters and things set out in the above and foregoing Notice of Laborer Construction Lien are true and correct as stated therein.

Christopher Mitchell  
Christopher Mitchell d/b/a  
Three C's Landscaping

SWORN AND SUBSCRIBED BEFORE ME, this the 4th day of November, 2011.

[Signature]  
NOTARY PUBLIC

My Commission Expires

SEPTEMBER 11, 2013

This Instrument Prepared By and Return Copy to:

**DRAYTON D. BERKLEY**

**Berkley Law Firm PLLC**

81 Monroe Avenue, Ste 400

Memphis, TN 38103

Telephone: 901-507-2521

Fax: 901-507-1791

e-mail: attorneyberkley@gmail.com

EXHIBIT A

PROPERTY IN HORN LAKE, DESOTO COUNTY, MISSISSIPPI:

Legal description of 14.54, more or less, acres of land being located in part of the northeast quarter and part of the northwest quarter of the southwest quarter of Section 35, Township 1 South, Range 8 West, DeSoto County, Mississippi, being known as The Willows of Horn Lake, Section "B";

BEGINNING at an iron pin (found) said pin being south 90 degrees 00 minutes 00 seconds West 2871.99 feet and north 00 degrees 00 minutes 00 seconds East 1622.93 feet from the southeast corner of Section 35, Township 1 South, Range 8 West; thence north 89 degrees 56 minutes 17 seconds West 1356.61 feet to an iron pin (found); thence north 00 degrees 02 minutes 41 seconds east 703.74 feet to a fence rail (found); thence North 89 degrees 44 minutes 02 seconds East 385.03 feet to a chisel mark (found); thence South 00 degrees 14 minutes 55 seconds East 149.99 feet to a p.k. nail (set); thence North 89 degrees 40 minutes 47 seconds east 190.25 feet to a chisel mark (found); thence South 00 degrees 10 minutes 16 seconds east 235.43 feet to an iron pin (found); thence North 89 degrees 39 minutes 40 seconds East 120.00 feet to a chisel mark (found); thence North 00 degrees 20 minutes 20 seconds West 2.48 feet to a chisel mark (found); thence North 89 degrees 39 minutes 40 seconds east 685.14 feet to a chisel mark (found); thence South 01 degrees 24 minutes 56 seconds West 329.88 feet to the point of beginning, containing 14.54 , more or less, acres of land

TOGETHER WITH all easements and rights set forth in that certain Signage Easement recorded in Book 471, Page 625, in the Office of the Chancery Clerk of DeSoto County, Mississippi.

Legal description of 9.12, more or less, acres of land being location in Section 35, Township 1 South, Range 8 West, City of Horn Lake, DeSoto County, Mississippi: **Index in all quarters**

BEGINNING at a fence rail(found) at the northwest corner of Lot 178, Section "B", The Willows of Horn Lake Subdivision (Plat Book 65, Page 12); thence South 00 degrees 02 minutes 41 seconds West 703.74 feet to a point; thence South 89 degrees 39 minutes 52 seconds West 265.52 feet to an iron pin (found); thence North 00 degree 02 minutes 30 seconds East 535.68 feet to a fence corner; thence North 89 degrees 45 minutes 12 seconds East 76.50 feet to a fence corner; thence North 00 degrees 14 minutes 48 seconds West 460.08 feet to an iron pin (found); thence North 89 degrees 42 minutes 53 seconds East 765.28 feet to an iron pin (set); thence South 00 degrees 14 minutes 48 seconds East 292.00 feet to an iron pin (found); thence South 89 degrees 45 minutes 14 seconds West 190.35 feet to a chisel mark (found); thence South 89 degrees 44 minutes 02 seconds West 385.03 feet to a fence rail (found) to the point of beginning (containing 397,412, more or less, square feet) or 9.12, more or less, acres.

TOGETHER WITH all easements and right set forth in that certain Signage Easement recorded in Book 471, Page 625, in the Office of the Chancery Clerk of DeSoto County, Mississippi.

**I. General Provisions**

The work which shall be performed includes, but is not limited to the maintenance of all common areas including banks, slopes, lawns, flowerbeds and pathways. Contractor shall furnish all necessary labor, supervision, equipment, tools, transportation, permits, insurance and taxes in performance of these specifications. The contractor shall perform maintenance in accordance with the highest horticultural standards. All landscaping debris will be removed from the premises by contractor.

**II. General Maintenance**

1. Complete blowing of walkways and driveways. Does not include any carports or garages.
2. Policing (litter pick-up) of all landscaping, pathways and flowerbeds

**III. Lawn Maintenance**

1. Weed control shall be regular and continuous in all planted and turf areas. Weed spray may be used only when there will be no damage to plants, animals or humans and no discoloration of masonry or decorative landscaping.
2. Contractor shall mow and edge lawn areas weekly during peak growing season and as frequently as needed during the winter months or periods of excessive rainfall.
3. All cuttings from mowing and edging shall be promptly collected and disposed of off-site, the same day as mowing.
4. The height of the areas shall not exceed 2.5".
5. Complete fertilization of all lawns shall be at a minimum of two (2) times per year in accordance with subsequent fertilization specifications.
6. Contractor shall provide labor for complete chemical weed, fungus and insect control as necessary.
7. Care shall be taken to prevent contact of string trimmers with HVAC units, sign posts, light posts, and tree trunks.
8. Utmost care must be taken by the Contractor to protect structures, trees, curbs, fences, walks, windows, drives, and air conditioning lines, etc. from damage by mowers, vehicles, etc.

**IV. Tree, Shrub and Flower Maintenance**

1. Trees and shrubbery shall be manicured regularly to contain their size in respect to species, size of planter or relative surrounding landscaping and for the best health of the plant.
2. All flowerbeds and ground cover shall be trimmed, edged and cultivated as needed.
3. Contractor shall provide labor to continually inspect all tree ties and stakes to insure that

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they are properly supported.

4. Contractor shall provide labor for insect, disease and weed control as necessary.
5. Using appropriate equipment, all groundcover shall be kept pruned or trimmed neatly, away from shrubs, trees, walks, header boards, sprinkler heads, etc. All dead or diseased growth shall be removed. Ivy and all other vines shall be pruned and trimmed and removed from walls as may be necessary.
6. Vines shall be maintained in their intended form. Pruning shall be performed as a continuous operation so plants will not be allowed to develop stray, undesirable growth. Vines will be trained and attached to buildings, fences, walls, posts, etc., where required, using acceptable methods and avoiding damage to structure involved.
7. Flowering trees shall be pruned or trimmed in early spring during deciduous period before new buds develop.
8. Fall and spring pre-emergent and broadleaf weed control.
9. Mulch applied in the beds and tree rings around office, one (1) time per year.

V. Fertilization (as needed per client)

Turf Areas

1. Fertilization will be done at least two (2) times per year.
2. Application and fertilizer is as follows:
  - Broadleaf weed control- Lesco 3-way
  - Bermuda grass should be fertilized with 1lb of nitrogen in May.
3. Any fertilizer that is disbursed to parking or sidewalk area will be promptly removed.

Shrubs

1. All shrubs are to be fertilized one (1) time per year administered no later than March 15<sup>th</sup>.
2. A general lawn fertilizer with a ratio of 12-4-8 or 16-4-8 (1.5) lbs. of actual nitrogen per 1,000 square feet per year should be administered to all shrubs.

Trees

- I. All trees are to be fertilized one (1) time per year administered no later than March 15<sup>th</sup>.

VI. Pruning

1. Trim shrubs six (6) times to form a good growth habit and to fit into the total landscape plan.

2. Trim small trees to form a good growth habit. This shall include but not be limited to removing suckers, water sprouts and deformed growth. Trimming shall be limited to a maximum height of 10 feet.
3. Pruning cuts shall be allowed to heal naturally and are not to be painted over with wound dressing.
4. All pruning cuts shall be made flush to the bark curl and shall be cleanly cut with no tearing of the bark.

**VII. Pesticides (extra outside of contract)**

1. The contractor shall apply proper chemicals as required to control insect damage to plants, shrubs, trees and turf.
2. Moles, gophers and ground squirrels, along with snails and slugs shall be controlled by State approved methods.
3. A yearly report should be provided to the agent detailing the status of white grubs, chinch bugs, brown patch, armyworms, or other pests, which may be detrimental to landscaping.

**VIII. Leaf Removal**

1. Leaves will be removed on each visit to the property and as frequent as necessary during fall. During the fall/winter, leaves will be removed after the killing frost. Leaf removal is a priority during the months of November, December and January.

**IX. Plant Removal or Replacement**

1. All plant, shrub, flowerbed, ground cover and tree removal or replacement shall be accomplished only with the approval of Owner's representative. Any plantation that dies shall be removed from the area and disposed off off-site post determining cause of death.
2. Notwithstanding sub-paragraph (1) above, Contractor shall not be responsible for plant loss due to Owner's construction or operational activities, vandalism, or acts of God.
3. Plant sizes for replacement shall be recommended by Contractor and authorized by Owner.
4. Damage repair to the irrigation system, not resulting from the Contractor's operation and negligence, will not be included. All repairs to the system shall be done according to irrigation details supplied as part of this contract. Repairs so provided would include normal wear and tear of the system, vandalism, accidental breakage by others, so call acts of God, etc. This work will be performed under separate agreement with proper authorization. Breakage or damage to any of the systems caused by the Contractor's neglect shall be repaired or replaced at the Contractor's expense.

**X. Guarantee and Replacement Policy**

Contractor shall guarantee installation of all new plant materials for a period of six (6)

months. Contractor shall be exempt from the provision if damage occurs as a result of an act of God. Acts of God are defined as those caused by windstorm, hail, fire, flood, earthquake and freezing. Vandalism and theft are considered as other willful acts over which contractor has no control over and are therefore exempt.

#### **XI. Landscaping Specifications**

Contractor shall be responsible for the furnishing of all materials, equipment and labor required to carry out the scope of these specifications, the quality and sufficiency of all materials so furnished (whether by Contractor or subcontractors), and the organization and operation of the various divisions of the work. Contractor shall maintain the landscaped areas of the premises in a first-class condition as may be determined from time to time by Owner's representative. In the absence of detailed drawings or specifications pertaining to specific items, Contractor shall perform such work in accordance with accepted horticultural practice.

#### **XII. Termination**

This contract may be terminated by either party, for just cause, upon (30) days written notice. The total charge under the contract is divided by the number of calendar months included in the payment period. However, substantial portions of the work may be performed in the early months of the period of the contract and, due to this averaging procedure, the cost of that work will not be recovered by the contractor until all monthly payments under the contract have been received. Therefore, in the event this contract is terminated with or without cause by the Owner, or is terminated for cause by the Contractor, the Contractor shall be entitled to recover its costs incurred throughout the date of termination, including a reasonable amount of overhead and profit, including any amount in excess of the monthly charges paid by the Owner through the date of termination. Compensation will be based on the sliding scale as shown:

Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
0%	5%	10%	55%	65%	80%	90%	95%	100%	100%	100%	100%

#### **XIII. Terms and Conditions**

Contractor shall recognize and perform in accordance with the written terms, specifications and drawings, contained or referred to herein. Contractor reserves the right to negotiate the contract when price or scope of work is affected by changes to any local, state, or federal law, regulation or ordinance that goes into effect after the Agreement is signed.

##### **Subcontracts:**

Contractor reserves the right to hire qualified subcontractors to perform specialized functions or work requiring specialized equipment.

##### **Invoicing:**

Contractor will submit monthly service invoices for the amount set forth under the prices and terms shown in this agreement. Any services rendered, that are in addition to or beyond the scope of work required by this Agreement shall be separately billed.



**Payment:**

Owner/Client shall review invoices submitted by Contractor and payment shall be due 15 days following the date of the invoice and delinquent if not paid by that date. Contractor may cancel Agreement by giving 10 business days written notice for nonpayment, after the payment is delinquent.

You will receive your first invoice within 30 days of our service commencement date, and can expect to receive them monthly thereafter by the 10<sup>th</sup> of each month. All billings are due and payable 15 days following the date of the invoice. A service charge of 1.5% per month will be added to all balances not paid within 30 days of invoice. This represents an annual rate of 18%. Should it become necessary for Three C's Landscaping to pursue collections of outstanding invoices, Westwind Townhomes, agrees to pay attorney's fees, court costs, interest and all expenses incurred in said collections.

I have read, understand and agree to the foregoing agreement, including the general terms and conditions, and hereby accept it on behalf of the Owner/Client.

Client Approval:

Client/ Owner:  
Westwind Townhomes

Contractor:  
Three C's Landscaping  
4791 Hornsby Dr Memphis, TN 38116

By:

Jonathan Shen  
Signature

By:

Christopher Mitchell  
Signature

Jonathan Shen president.  
Print Name & Title

Christopher Mitchell  
Owner

Date:

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Date:

March 31, 2011